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7 Attorneys for Complainant

8 **BEFORE THE**  
9 **BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2010-125

13 **MARGARET THERESE DOYLE**  
2240 Nightshade Lane  
Santa Maria, CA 93455

**A C C U S A T I O N**

14 Registered Nurse License No. 513331

15 Respondent.  
16

17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely  
20 in her official capacity as the Interim Executive Officer of the Board of Registered Nursing,  
21 Department of Consumer Affairs.

22 2. On or about July 27, 1995, the Board issued Registered Nurse License  
23 Number 513331 to Margaret Therese Doyle ("Respondent"). Respondent's registered nurse  
24 license was in full force and effect at all times relevant to the charges brought herein and will  
25 expire on January 31, 2011, unless renewed.

26 **STATUTORY PROVISIONS**

27 3. Business and Professions Code ("Code") section 2750 provides, in  
28 pertinent part, that the Board may discipline any licensee, including a licensee holding a

1 temporary or an inactive license, for any reason provided in Article 3 (commencing with section  
2 2750) of the Nursing Practice Act.

3           4.       Code section 2764 provides, in pertinent part, that the expiration of a  
4 license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding  
5 against the licensee or to render a decision imposing discipline on the license. Under Code  
6 section 2811, subdivision (b), the Board may renew an expired license at any time within eight  
7 years after the expiration.

8           5.       Code section 2761 states, in pertinent part:

9           The board may take disciplinary action against a certified or licensed  
10 nurse or deny an application for a certificate or license for any of the following:

11           (a) Unprofessional conduct. . .

12           6.       Code section 2762 states, in pertinent part:

13           In addition to other acts constituting unprofessional conduct within  
14 the meaning of this chapter [the Nursing Practice Act], it is unprofessional  
conduct for a person licensed under this chapter to do any of the following:

15           (a) Obtain or possess in violation of law, or prescribe, or except  
16 as directed by a licensed physician and surgeon, dentist, or podiatrist  
17 administer to himself or herself, or furnish or administer to another, any  
controlled substance as defined in Division 10 (commencing with Section  
11000) of the Health and Safety Code or any dangerous drug or dangerous  
device as defined in Section 4022.

18           (b) Use any controlled substance as defined in Division 10  
19 (commencing with Section 11000) of the Health and Safety Code, or any  
dangerous drug or dangerous device as defined in Section 4022, or alcoholic  
20 beverages, to an extent or in a manner dangerous or injurious to himself or  
21 herself, any other person, or the public or to the extent that such use impairs  
his or her ability to conduct with safety to the public the practice authorized  
by his or her license. . .

22           7.       Code section 2770.11 states:

23           (a) Each registered nurse who requests participation in a diversion  
24 program shall agree to cooperate with the rehabilitation program designed by a  
committee. Any failure to comply with the provisions of a rehabilitation program  
25 may result in termination of the registered nurse's participation in a program. The  
name and license number of a registered nurse who is terminated for any reason,  
26 other than successful completion, shall be reported to the board's enforcement  
program.

27           (b) If a committee determines that a registered nurse, who is denied  
28 admission into the program or terminated from the program, presents a threat to  
the public or his or her own health and safety, the committee shall report the name

1 and license number, along with a copy of all diversion records for that registered  
2 nurse, to the board's enforcement program. The board may use any of the records  
3 it receives under this subdivision in any disciplinary proceeding.

4 8. Code section 4060 states, in pertinent part:

5 No person shall possess any controlled substance, except that furnished to  
6 a person upon the prescription of a physician, dentist, podiatrist, optometrist,  
7 veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished  
8 pursuant to a drug order issued by a certified nurse-midwife pursuant to Section  
9 2746.51, a nurse practitioner pursuant to Section 2836.1, a physician assistant  
10 pursuant to Section 3502.1, a naturopathic doctor pursuant to Section 3640.5, or  
11 a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause  
12 (iv) of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052.  
13 This section shall not apply to the possession of any controlled substance by a  
14 manufacturer, wholesaler, pharmacy, pharmacist, physician, podiatrist, dentist,  
15 optometrist, veterinarian, naturopathic doctor, certified nurse-midwife, nurse  
16 practitioner, or physician assistant, when in stock in containers correctly  
17 labeled with the name and address of the supplier or producer . . .

18 9. Health and Safety Code section 11173, subdivision (a), states, in pertinent  
19 part, that "[n]o person shall obtain or attempt to obtain controlled substances, or procure or  
20 attempt to procure the administration of or prescription for controlled substances, (1) by fraud,  
21 deceit, misrepresentation, or subterfuge . . ."

#### 22 CONTROLLED SUBSTANCE AT ISSUE

23 10. "Codeine" is a Schedule II controlled substance as designated by Health  
24 and Safety Code section 11055, subdivision (b)(1)(H).

#### 25 COST RECOVERY

26 11. Code section 125.3 provides, in pertinent part, that the Board may request  
27 the administrative law judge to direct a licensee found to have committed a violation or  
28 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation  
and enforcement of the case.

#### RESPONDENT'S TERMINATION FROM BOARD'S

#### DIVERSION PROGRAM AS A PUBLIC RISK

12. On or about January 17, 2006, Respondent was enrolled in the Board's  
Diversion Program. On or about July 17, 2008, the Diversion Evaluation Committee ("DEC")  
terminated Respondent from the Diversion Program for noncompliance/public risk due to the

1 following:

- 2 a. Respondent's random bodily fluid drug screening of May 6, 2008, was
- 3 positive for ethylglucuronide ("EtG")<sup>1/</sup>.
- 4 b. Respondent's random bodily fluid drug screening of May 13, 2008, was
- 5 positive for EtG.
- 6 c. Respondent's random bodily fluid drug screening of May 20, 2008, was
- 7 positive for EtG.
- 8 d. Respondent's random bodily fluid drug screening of May 23, 2008, was
- 9 positive for EtG.
- 10 e. Respondent's random bodily fluid drug screening of June 3, 2008, was
- 11 positive for EtG.
- 12 f. Respondent refused to return to mandated treatment.
- 13 g. Respondent missed five calls to Compass Vision, Inc. ("CVI")<sup>2/</sup>.
- 14 h. Respondent missed one random bodily drug screening.

15 **FIRST CAUSE FOR DISCIPLINE**

16 **(Use of Alcoholic Beverages to an Extent**  
17 **or in a Manner Dangerous or Injurious to Others)**

18 13. Respondent agreed, as a condition of her participation in the Board's  
19 Diversion Program, that she would comply with all elements of her rehabilitation plan,  
20 including, but not limited to, abstaining from the use of alcoholic beverages and submitting to  
21 random body fluid screenings. On or about May 6, 2008, May 13, 2008, May 20, 2008, May 23,  
22 2008, and June 3, 2008, Respondent submitted to random bodily fluid drug screenings which  
23 tested positive for EtG at levels that were too high to be incidental use.

24 14. Respondent is subject to disciplinary action pursuant to Code section  
25 2761, subdivision (a), on the grounds of unprofessional conduct, as defined by Code section

26 \_\_\_\_\_  
27 1. EtG is a direct metabolite of alcohol.

28 2. CVI is a provider of testing solutions for healthcare monitoring programs nationwide.

2762, subdivision (b), in that on or about May 6, 2008, May 13, 2008, May 20, 2008, May 23, 2008, and June 3, 2008, she used alcoholic beverages to an extent or in a manner dangerous or injurious to herself, others, and the public and to the extent that it impaired her ability to practice nursing safely, as further set forth above.

## **SECOND CAUSE FOR DISCIPLINE**

### **(Diversion, Possession, and Self-Administration of Controlled Substances)**

15. Respondent is subject to disciplinary action pursuant to Code section 2761, subdivision (a), on the grounds of unprofessional conduct, as defined by Code section 2762, subdivision (a), in that on January 17, 2006, Respondent admitted to the DEC that in or about and between October 2005, and December 2005, while on duty as a registered nurse at Marian Medical Center ("MMC") in Santa Maria, California, Respondent did the following:

#### **Diversion of a Controlled Substance:**

a. Respondent obtained the controlled substance Tylenol with Codeine by fraud, deceit, misrepresentation, or subterfuge, in violation of Health and Safety Code section 11173, subdivision (a). Respondent withdrew Tylenol with Codeine from MMC's PYXIS system (a computerized medication system) under the names of various patients and then would keep the medication for her personal use.

#### **Possession of a Controlled Substance:**

b. Respondent possessed unknown quantities of the controlled substance Tylenol with Codeine without a valid prescription from a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor, in violation of Code section 4060.

#### **Self-Administration of a Controlled Substance:**

c. Respondent self-administered the controlled substance Tylenol with Codeine without lawful authority therefor.

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